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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,504	08/05/2003	David J. Alverson	0131-1	8679
25901	7590	09/14/2006	EXAMINER	
ERNEST D. BUFF ERNEST D. BUFF AND ASSOCIATES, LLC. 231 SOMERVILLE ROAD BEDMINSTER, NJ 07921			CHOI, PETER H	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/634,504		ALVERSON ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Peter Choi		3623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following is a **FINAL** office action upon examination of application number 10/634,504. Claims 1-13 have been amended by the amendment submitted by the Applicant on June 29, 2006, are pending in the application, and have been examined on the merits discussed below.

#### ***Response to Amendment***

2. The previous rejection of claims 1-13 raised under 35 USC § 112, second paragraph, has been withdrawn in view of Applicant's remarks providing clarification regarding the subject matter regarded as the invention.

#### ***Response to Arguments***

3. Applicant's arguments filed June 29, 2006 have been fully considered but they are not persuasive.

Applicant has attempted to challenge the Examiner's taking of Official Notice in the Office Action mailed April 5, 2006. There are minimum requirements for a challenge to Official Notice:

(a) In general, a challenge, to be proper, must contain adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice

(b) Applicants must seasonably traverse (challenge) the taking of Official Notice as soon as practicable, meaning the next response following an Office Action. If an applicant fails to seasonably traverse the Official Notice during examination, his right to challenge the Official Notice is waived.

Applicant has not provided adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice. Therefore, the presentation of a reference to substantiate the Official Notice is not deemed necessary. The Examiner's taking of Official Notice has been maintained.

Bald statements such as, "the Examiner has not provided proof that this element is well known" or "applicant disagrees with the Examiner's taking of Official Notice and hereby requests evidence in support thereof", are not adequate and do not shift the burden to the Examiner to provide evidence in support of the Official Notice.

In the previous Office Action mailed April 5, 2006, notice was taken by the Examiner that certain subject matter is old and well known in the art. Per MPEP 2144.03(c), these statements are taken as admitted prior art because no traversal of this statement was made in the subsequent response. Specifically, it has been taken as prior art that:

- It is old and well known in the art to administer surveys/questionnaires to people with sufficient knowledge and authority needed to provide accurate responses.
- It is an old and well-known fact that evaluations of a business (including financial and business practices) can be used for a plurality of applications, such as establishing insurance premiums or loans of credit.
- The surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company, with much emphasis being placed on financial strength and past performance of the contractor.
- It is an old and well-known fact that certifications are not indefinitely earned, but rather are distinctions of accomplishment over a specific period of time that become invalid and require renewal after a predetermined period of time.

Applicant argues that Aycock et al. does not question or evaluate business and financial practices within the supplier's business.

The Examiner respectfully disagrees. As presented in previous Office Actions, the evaluation metrics relied upon by Aycock et al. (technical specifications, price and availability, service and support, selected quality maturity requirements, production, distribution, price, serviceability, and reliability of products or services) indeed evaluate the business and financial practices of a contractor.

As presented in previous Office Actions, the Examiner respectfully disagrees regarding the insufficiency of product availability, design production, and the like in establishing risk assessment of contractors. The Examiner asserts that design, production, serviceability and reliability are metrics indicative of "business practices", and production and distribution are also (indirect) measures of financial practices.

Absent a specific definition for "business and financial practices", the limitation has been broadly interpreted as being directed towards measures reflecting the operations (i.e., quality, production and design control measures) of the contractor being evaluated. Similarly, GuruNet is directed towards measures reflecting the financial status (i.e., cash flow levels, cost efficiency, minimization of costs, sources of capital, budget analysis, paying bills, collecting receivables) of the contractor being evaluated.

Applicant argues that the evaluations in Aycock cannot raise to the level necessary for predicated risk ranking in securing lines of credit, and that GuruNet does not establish financial information that can be utilized by a lender as a basis for support of critical financial lending decisions.

The Examiner respectfully disagrees. As presented by the Examiner, GuruNet is directed towards evaluating the financial status of a company, by evaluating the company's ability to pay bills and collect receivables on time, maintaining solid cash

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flows, cost efficiency through minimization of waste and costs, use of detailed budgets, utilization of all possible sources of capital, accuracy in project/case/job costing/estimation methods, relationships with bankers, successful evaluation of credit risks, minimization of bad debts, etc. [see Retail Evaluation statements 72-74, 76-89, and 127, Manufacturing Evaluation statements 57-68, and 123, Wholesale Evaluation Statements 67-83 and 126, Service Evaluation Statements 71-85, 98-100 and 138].

Furthermore, the Applicant has not specified the level of evaluations deemed to be “necessary” to predicate risk ranking in securing lines of credit. The claim language merely cites that the assessment of financial practices is used.

Furthermore, as mentioned above, the Applicant has not timely or adequately challenged the Official Notice raised by the Examiner in the previous Office Action mailed April 5, 2006. Thus, it has been admitted as prior art that it is old and well known in the art that evaluations of a business can be used for a plurality of applications, such as establishing insurance premiums or loans of credit, and that the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor’s business plan, history of operations, and evaluating the management of the company, with much emphasis being placed on financial strength and past performance of the contractor. Thus, the Examiner asserts that an artisan of ordinary skill in the art would take the

financial evaluations of a contractor, as provided by GuruNet, to obtain insurance premiums or establish loans of credit from surety institutions.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Aycock et al. is directed towards evaluating the capabilities of potential vendors using on-site audits and questionnaires, GuruNet is directed towards surveying staff to evaluate the capabilities of a company, and Bladen et al. is directed towards performing interactive risk assessments of a business. Thus, all of the references relied upon by the Examiner are directed towards interactively evaluating the capabilities of a business. Aycock et al. is directed towards evaluating potential contractors, whereas GuruNet and Bladen et al. are applied to any generic business; thus, an artisan of ordinary skill in the art would look to glean the evaluation methods of GuruNet and Bladen et al. to modify Aycock et al. to yield a more comprehensive means of evaluating the qualifications of potential contractors.



In response to applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant argues that none of Aycock et al., GuruNet, and Bladen et al., taken alone, or in combination, discloses or suggests a contractor certification system utilizing a survey means comprising a questionnaire provided to selected candidates comprising workers, foremen, project managers, engineers, and principals, found within different organizational levels of a contractor's business.

The Examiner respectfully disagrees. GuruNet teaches to distribute the appropriate list of questions to the staff of a company. The Examiner asserts that the staff of a company would comprise workers from a plurality of organizational levels, and that workers and management would be given the list of questions for evaluation. In Aycock et al., in order to submit a RFP/RFQ, appropriate information must be obtained from those who are knowledgeable with the operations of the contractor's business.

Furthermore, as mentioned above, the Applicant has not timely or adequately challenged the Official Notice raised by the Examiner in the previous Office Action mailed April 5, 2006. Thus, it has been admitted as prior art that it is old and well known in the art to administer surveys/questionnaires to people with sufficient knowledge and authority needed to provide accurate responses. As Aycock et al., GuruNet and Bladen et al. are directed towards a questionnaire/survey evaluation of a contractor's business, an artisan of ordinary skill in the art would administer the survey/questionnaire to the people with sufficient knowledge and authority needed to provide accurate responses, such as workers, foremen, project managers, engineers and principals.

Applicant argues that neither Aycock et al., GuruNet, nor Bladen disclose or suggest on-location assessment means comprising asking questions to each of the candidates selected through the mapping means and observing examples of the contractor's business practices and financial procedures.

The Examiner respectfully disagrees. Aycock et al. teaches that an additional tier 2 analysis is performed, namely performance of an on-site supplier audit to validate the supplier responses, and to gain any additional information necessary to complete the supplier selection process [Column 7, lines 61-65]. After the quality maturity requirements have been selected in step 42, a physical audit at the supplier site is conducted in step 44. The on-site audit, also referred to as a supplier site evaluation, is typically performed by the purchasing agent and/or employees/consultants of the buying

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entity specialized in relevant fields, such as design engineers, quality control engineers, production engineers, and production control managers responsible for production scheduling. Aycock et al. teaches the step of performing an on-site audit (i.e., on-location assessment means) to validate supplier response to the RFP/RFQ (candidates are asked questions), either by performing actual tests on hardware equipment or software systems, and/or by reviewing the quality control procedures and processes at the supplier site (observe examples of the contractor's business practices and financial procedures) [Column 8, lines 27-31]. The supplier is presented with a series of interview-type questions directed to answering specific components of the RFP/RFQ questions in accordance with the selected quality maturity questions [Column 12, lines 47-50]. The RFP/RFQ questions themselves are directed towards a set of technical requirements that need to be met by prospective vendors [Column 1, lines 45-49, Column 3, lines 24-29] and are weighted corresponding to their relative sophistication or relevance to the project objective [Column 6, lines 19-54]; thus, the RFP/RFQ questions are presented to and answered by contractors. As presented above, GuruNet teaches to distribute the appropriate list of questions to the staff of a company. The Examiner asserts that the staff of a company would comprise workers from a plurality of organizational levels, and that workers and management would be given the list of questions for evaluation. In Aycock et al., in order to submit a RFP/RFQ, appropriate information must be obtained from those who are knowledgeable with the operations of the contractor's business; thus, questions are answered by selected candidates from a plurality of organizational levels.

The Applicant is correct in that the Tier 2 on-site supplier audit analysis only takes place if the supplier is not initially approved. However, the claim language does not preclude this. The claim language only requires on-location assessment comprising asking questions and observing examples of the candidates' business practices and financial procedures. As presented above, Aycock et al. conducts on-site audits where supplier responses are validated (i.e., an observation of the responses regarding business practices and financial procedures is made and verified).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 - 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (Patent No. #5,765,138) in view of GuruNet's "Business Evaluation Statements" (herein referred to as GuruNet), further in view of Bladen et al. (Patent Application No. #US2002/0099586A1).

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As per claim 1, Aycock et al. teaches a contractor certification (supplier evaluation) system comprising:

(a) survey means comprising a questionnaire (**RFP/RFQ**), which is provided to selected candidates (**suppliers that desire to be qualified as vendors**) within a contractor's business for gathering answers concerning information detailing business and financial practices (**design, production, distribution, serviceability, and reliability of the supplier's product or service**), said answers being used for assessing business (**service and support**) and financial practices (**price and availability**) of said contractor's practices by an independent third party (**the purchasing agent identifying the set of technical requirements that need to be met may be a contracting department of the buying entity, or an independent agent acting on behalf of the buying entity**) [Column 1, lines 55-56, Column 6, lines 1-9];

(d) on-location assessment (**on-site audit**) means for determining (**validating**) business practices at the contractor's operations, said assessment means comprising asking questions to each of said candidates selected through said mapping means (**the RFP/RFQ questions are directed towards a set of technical requirements that need to be met by prospective vendors and towards a set of selected quality maturity questions, thus the questions are based on a "mapping" of technical requirements; the questions are weighted corresponding to their relative sophistication or relevance to the project objective, thus the importance of the responses to the questions have been "mapped"**) and observing examples of the

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contractor's business practices and financial procedures **(the on-site audit includes validating the supplier responses to the RFP/RFQ, either by performing actual tests on hardware equipment or software systems, and/or reviewing the quality control procedures and processes at the supplier site)** [Column 1, lines 45-49, Column 3, lines 24-29, Column 6, lines 19-54, Column 7, lines 62-65, Column 8, lines 27-31, Column 12, lines 47-50];

(e) comparison means **(risk assessment)** for assessing business practices **(technical capabilities)**, and ranking the contractor in comparison with industry standards **{The supplier quality maturity assessment process is based upon national and international standards including ISO 9001/ISO 9000-3, which are industry standards for quality}** [Column 8, lines 58-63]; and

(f) reporting means **(product database)** for providing a grade indicative of said contractor's rank **(competitive analysis of all vendors to determine the respective performance)** [Column 9, lines 59-67 and Column 10, lines 1-17].

Ayock et al. teaches the use of a product database (which may include additional fields related to the technical or fiscal parameters of products) and product price and availability [Column 10, lines 12-13], but does not further explicitly disclose assessment means for determining the financial practices of a contractor's operations or the use of financial practices to predicate risk ranking when securing lines of credit. However, GuruNet is directed to the analogous art of providing survey means for evaluating the business and financial practices of a company.

Aycock et al. is directed towards evaluating the capabilities of potential vendors using on-site audits and questionnaires, while GuruNet is directed towards surveying staff to evaluate the capabilities of a company. Thus, both references relied upon by the Examiner are directed towards interactively evaluating the capabilities of a business. Aycock et al. is directed towards evaluating the business practices of potential contractors, whereas GuruNet is applied to any generic business; thus, an artisan of ordinary skill in the art would look to glean the evaluation methods of GuruNet and Bladen et al. to modify Aycock et al. to yield a more comprehensive means of evaluating the qualifications of potential contractors.

GuruNet teaches a set of assessment statements that can be used to evaluate the financial practices (**paying bills, collecting receivables, budget analysis, accounting systems, sources of capital, cost efficiency, minimization of costs, cash flow levels**) of a company [Retail Questions 72-74, 76-89, and 127, Manufacturing Questions 57-68, and 123, Wholesale Questions 67-83, and 126, Service Questions 71-85, 98-100 and 138].

Furthermore, it has been admitted as prior art that it is old and well known in the art that evaluations of a business can be used for a plurality of applications, such as establishing insurance premiums or loans of credit, and that the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an



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organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company, with much emphasis being placed on financial strength and past performance of the contractor.

Thus, the Examiner asserts that an artisan of ordinary skill in the art would take the financial evaluations of a contractor, as provided by GuruNet, to obtain insurance premiums or establish loans of credit from surety institutions.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include the evaluatory statements directed towards business and financial practices presented by GuruNet, because doing so would allow Aycock et al. to evaluate the business and financial practices of a potential contractor, a factor utilized by surety institutions in the surety underwriting process involving the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company, thereby yielding a more comprehensive means of evaluating the qualifications of potential contractors, especially since much emphasis is placed on financial strength and past performance of the contractor.

As per limitation (c), the combined teachings of Aycock et al. and GuruNet fail to teach a mapping means for studying answers provided to a questionnaire.



Bladen et al. teaches a risk assessment system where performance can be compared against an industry benchmark using trend analysis graphs of results. Aycock et al. and GuruNet are directed to the analogous art of providing survey means for evaluating the business and financial practices of a company. Bladen et al. is directed to the analogous art of assessing the risk of an organization based on an audit comprising a set of questions, criteria and/or other measurables; therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include a mapping means because doing so would allow the combine Aycock et al. – GuruNet teaching to use graphs as a graphical means of concisely comparing the overall performance of a contractor to industry standards or competitors, or to map their individual strengths and weaknesses, thereby evaluating the performance of a contractor [Stage 2 of Paragraph 0461].

Aycock et al. does not explicitly disclose the job title/role or organizational hierarchical position of survey recipients. However, it has been admitted as prior art as a result of improperly and/or untimely challenged Official Notice that it is old and well known in the art to administer surveys/questionnaires to people with sufficient knowledge and authority needed to provide accurate responses. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to administer surveys/questionnaires to workers and management of the company being evaluated because the resulting combination would provide useful representative information from credible sources familiar with the inner

workings of the organization, thereby providing accurate and credible information for the evaluation of said organization.

As per claim 2, although not taught by Aycock et al., GuruNet teaches a contractor certification (**company evaluation**) system with a questionnaire (**list of statements**) composed of non-threatening (**objective**) questions. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include the questionnaire featuring non-threatening questions as taught by GuruNet because doing so would enable Aycock et al. to obtain an honest opinion regarding information necessary to conduct a proper analysis of a company's practices, as the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company, thereby providing more reliable and dependent data on which to make an accurate evaluation of the company.

As per claim 3, although not taught by the combined teachings of Aycock et al. and GuruNet, Bladen et al. teaches a contractor certification (**risk assessment**) system where the mapping means (**graphs of results**) develops, within answers to questions, areas comprising clear matches, clear discrepancies and inadequate details for on location assessment. [Paragraph 0345]

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the combined teachings of Aycock et al. and GuruNet to include a mapping means because doing so enables Aycock et al. to compare the results of a contractor in a particular aspect or the response to a particular question from the questionnaire, since results from a questionnaire can be quantified and graphed, and the graphs may highlight strengths or weaknesses of a contractor in comparison to competitors or industry standards that may otherwise be overlooked, thereby providing the ability to benchmark best practices of contractors.

As per claim 4, Aycock et al. teaches a contractor certification (**supplier evaluation**) system where the on-location (**on-site**) assessments (**evaluations**) comprise job site visits (**on-site audit**) [Column 3, line 36 and Column 8, lines 20-24].

As per claim 5, Aycock et al. teaches a contractor certification (**supplier evaluation**) system where the comparison means comprises an evaluation of the contractor's business practice data against one or more databases containing performance and risk factor data from similar contractors (**existing and historical vendor performance and on-site audit reports**), stored by the contractor certification (**supplier evaluation**) system [Column 9, lines 38-57].

As per claim 6, the combined teachings of Aycock et al., GuruNet, and Bladen et al. are silent regarding the use of a special logo or insignia to represent the caliber of a

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contractor's work or the successful completion of the certification program. However, the concept of providing for a display that recognizes that a contractor's services exceed industry standards is well known and accepted as a prior art practice (for example, ISO certification). It is also prior art practice that contractors who receive recognition or certification would adapt it for use in promotion of their business, whether it be on stationary, the company website, or other mediums of advertising.

It has been established in the prior art that when a contractor **(or any firm)** subjects itself to assessment, evaluation, or certification, the firm will receive some sort of notification **(usually in written form)** regarding their performance. This notification will entail the findings of the assessment, evaluation, or certification, and can be used by surety institutions in underwriting loans to the contractor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combined teachings of Aycock et al., GuruNet and Bladen et al. to notify contractor's of their ability to use a special logo or insignia representing the caliber of work performed or successful certification, because doing so would enable participants (contractors) to embark in marketing campaigns to publicly display a certification mark in conjunction with its goods and advertisements, the certification mark having discernable value in the marketplace, signifying the quality of the participant's work and the willingness to be an exemplary organization within the

industry, thereby enabling participants to be recognized for the quality of work performed, making the public aware of the participant's accomplishments and abilities.

As per claim 7, the teachings of Aycock et al. fail to disclose the composition of the administered questionnaire. However, GuruNet teaches a series of business evaluation statements that comprises questions directed to organizational aspects with particular reference to management structure [Retail Questions 42,43,52-59,89], authority delegation [Retail Questions 44-45, Manufacturing Question 92, and Wholesale Questions 40-41], and decision-making practices [Retail Questions 49, Manufacturing Questions 31, and 37, Service Questions 39-40,]. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include questions directed to management structure, authority delegation, and decision-making practices as taught by GuruNet to obtain an understanding of key organizational aspects that impact the daily operations of the company, making it possible to compare practices with the practices of other firms, and further because the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company.

As per claim 8, the teachings of Aycock et al. fail to disclose the composition of the administered questionnaire. However, GuruNet teaches a series of business

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evaluation statements that comprises questions directed to managerial aspects with particular reference to marketing [Retail Questions 1-4 and 6-13, 114-117, 132, Manufacturing Questions 3,7,9-10,12, 112-114, Wholesale Questions 1-11, 13, 115-117, and Service Questions 2-8, 10-12, and 125-127].

Although GuruNet does not teach any questions regarding a company's bidding process and project execution practice, it has been established as prior art practice that these measures are vital components in defining a company's management practices and an evaluation of these practices would be needed to formulate a comprehensive assessment that can be used to compare the company with other companies.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include questions directed to marketing, bidding processes, and project execution practices as taught by GuruNet because doing so would enable Aycock et al. to obtain an understanding of key managerial aspects that impact the daily operations of the company, making it possible to compare practices with the practices of other firms, and further because the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company, thereby providing a more comprehensive means of evaluating potential contractors.

As per claim 9, Aycock et al. teaches a contractor certification **(supplier evaluation)** system as recited by claim 5, where the database **(vendor database)** stored comprises a compilation of business and financial and risk data derived from contractors previously evaluated **(existing and historical vendor performance or on-site audit reports)** [Column 9, lines 38-57].

As per claim 10, Aycock et al. teaches a contractor certification **(supplier evaluation)** system as recited by claim 6, where the comparison report **(vendor performance report)** sets forth said contractor's business practices **(vendor performance and on-site audit reports)** with detail sufficient to assist surety institutions engaged in underwriting a contractor's credit line [Column 9, lines 38-57].

Claim 11 recites limitations already addressed by the rejection of claim 6 above; therefore, the same rejection applies.

As per claim 12, neither Aycock et al., GuruNet, nor Bladen et al. explicitly teaches a contractor certification system as recited by claim 1, wherein said reporting means is provided to lending institutions for determining an amount of credit to extend to said contractor's business.

However, it has been admitted as prior art, as a result of untimely and/or improperly challenged Official Notice, that it is an old and well-known fact that evaluations of a business (including financial and business practices) can be used for a plurality of applications, such as establishing insurance premiums or loans of credit. The surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company. Much emphasis is placed on financial strength and past performance of the contractor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combined teachings of Aycock et al., GuruNet and Bladen et al. to include the step of providing an analytical report resulting from an administered survey to lending institutions because the contents of the analytical report contains information routinely used in the surety underwriting process when determining an amount to loan or insure the business for, and also because the attainment of certification would be representative of a company's overall operations, including financial, credit, organizational capabilities, business plan, history of operations, and management of the company; thus, providing an analytical report resulting from the administered survey would be used by surety institutions in the evaluation of the risks and capabilities of a company.



As per claim 13, neither Aycock et al., GuruNet, nor Bladen et al. explicitly teaches a contractor certification system as recited by claim 1 that is repeated annually.

However, it has been admitted as prior art, as a result of untimely and/or improperly challenged Official Notice, that it is an old and well-known fact that certifications are not indefinitely earned, but rather are distinctions of accomplishment over a specific period of time that become invalid and require renewal after a predetermined period of time. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combined teachings of Aycock et al., GuruNet and Bladen et al. to repeat the certification system on an annual basis in order because doing so would enable the Ayock et al. – GuruNet – Bladen et al. combination to reflect up-to-date changes in evaluation standards that have been rendered obsolete over time, changes in regulations applicable to a company and/or the field of endeavor in which the company conducts business, changes in a business' performance and worth as indicated by financial and business practices, changes in management, or simply to resolve the status of a company's expiring certification, thereby providing accurate evaluations of a company's performance, according to current certification criteria.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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PC

Peter Choi  
Examiner  
Art Unit 3623

September 8, 2006

*Romain Gaudy*  
Primary Examiner  
Art Unit 3623